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QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND IN THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS

Adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights

Progress report submitted by Mrs. Fatma-Zohra Ksentini, Special Rapporteur, pursuant to Commission resolution 1997/9

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Introduction

1. At its fifty-first session, the Commission on Human Rights, aware of the growing practice of the dumping in African and other developing countries by transnational corporations and other enterprises from industrialized countries of hazardous and other wastes, adopted resolution 1995/81 in which it noted with grave concern that the increasing rate of illicit dumping of toxic and dangerous products and wastes in developing countries continues adversely to affect the human rights to life and health of individuals in those countries, and decided to appoint, for a three-year period, a special rapporteur with a mandate to:

(a) Investigate and examine the effects of the illicit dumping of toxic and dangerous products and wastes in African and other developing countries on the enjoyment of human rights, in particular on the human rights to life and health of everyone;

(b) Investigate, monitor, examine and receive communications and gather information on the illicit traffic and dumping of toxic and dangerous products and wastes in African and other developing countries;

(c) Make recommendations and proposals on adequate measures to control, reduce and eradicate the illicit traffic in, transfer to and dumping of toxic and dangerous products and wastes in African and other developing countries;

(d) Produce annually a list of the countries and transnational corporations engaged in the illicit dumping of toxic and dangerous products and wastes in African and other developing countries and a census of human persons killed, maimed or otherwise injured in the developing countries through this heinous act.

The Commission requested the Special Rapporteur to submit her findings, including the list referred to in (d) above, to the Commission at its fifty-second session.

2. By its decision 1995/288 of 25 July 1995, the Economic and Social Council endorsed Commission resolution 1995/81.

3. The Chairman of the fifty-first session of the Commission on Human Rights, after consultation with the members of the Bureau, appointed Mrs. Fatma-Zohra Ksentini (Algeria) as Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights.

4. In its resolution, the Commission urged the international community to give the necessary support to developing countries, upon their request, in their efforts to implement the provisions of existing international and regional instruments governing the transboundary movement and dumping of toxic and dangerous products and wastes in order to protect and promote the human rights to life and good health of all. The Commission requested the Secretary-General to establish in the Centre for Human Rights a focal unit

with the specific task of following up on the findings of the Special Rapporteur and other issues related to the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights. Furthermore, it urged all Governments, specialized agencies and non-governmental organizations to cooperate fully with the Special Rapporteur, in particular by providing information on the movement and dumping of toxic and dangerous products and wastes.

5. In accordance with resolution 1995/81, the Special Rapporteur submitted a preliminary report (E/CN.4/1996/17).

6. In its resolution 1996/14, the Commission took note of the preliminary report of the Special Rapporteur and in particular her preliminary conclusions and recommendations. The Commission reaffirmed that illicit traffic and dumping of toxic and dangerous products and wastes constituted a serious threat to the human rights of life and good health of every individual. It requested the Special Rapporteur to continue to undertake a global, multidisciplinary and comprehensive study of the phenomena and to include in her next report information on countries and enterprises engaged in the illicit traffic, as well as information on persons killed, maimed or injured in developing countries through this heinous act.

7. In accordance with resolution 1996/14, the Special Rapporteur submitted a progress report (E/CN.4/1997/19). Replies submitted by Governments to allegations summarized in the above-mentioned report are contained in document E/CN.4/1998/10/Add.1.

8. In its resolution 1997/9, the Commission, reaffirming that the illicit movement and dumping of toxic and dangerous substances and wastes constituted a serious threat to the human rights to life and health of individuals, took note of the progress report of the Special Rapporteur and, in particular, her conclusions and recommendations, and regretted that she had encountered serious obstacles in the discharge of her mandate, in particular the lack of adequate human and financial resources. The Commission requested the Special Rapporteur to continue to undertake a global, multidisciplinary and comprehensive study of the phenomena and to include in her next report information on countries and enterprises engaged in the illicit movement and dumping as well as information on persons killed, maimed or injured in developing countries through that heinous act.

9. The Special Rapporteur submits the present progress report in accordance with resolution 1997/9.

10. In paragraph 9 of resolution 1997/9, the Commission requested the Special Rapporteur to continue to consult all relevant bodies and urged all Governments and relevant bodies and organizations to continue to cooperate fully with her by providing information.

11. Accordingly, on 23 May 1997, the Special Rapporteur sent requests to Governments, specialized agencies and non-governmental organizations for information on the movement and dumping of toxic and dangerous products and wastes.

12. At the time of submission of the present report, replies had been received from the following Governments: Australia, Bangladesh, Belgium, China, Croatia, Cuba, Cyprus, Ghana, Israel, Jordan, Mexico, New Zealand, Peru, Syrian Arab Republic, Thailand, Turkey, Ukraine, Zambia.

13. Responses were received from the following non-governmental organizations: Friends of the Earth International, Housmans Peace Resource Project, International Indian Treaty Council, Information Habitat, International Peace Bureau, International Physicians for the Prevention of Nuclear War, National Steering Committee of Nuclear Free Local Authorities, Pesticide Action Network North America, Physicians for Global Survival, Women's International League for Peace and Freedom.

14. On the basis of the information gathered from various sources, a summary of cases and incidents has been established. The Special Rapporteur received numerous reports and allegations concerning her mandate. Some of them referred to the issue of environmental degradation leading to violations of human rights. Others contained particular cases of alleged violations of human rights in connection with the illicit movement and dumping of toxic and dangerous products and wastes. The information was processed and allegations sent to the Governments concerned deal exclusively with this phenomenon.

15. Given the specific nature of such communications, the Special Rapporteur decided to send the allegations both to the countries from which the illicit traffic was alleged to have been originated and to the targeted or victimized countries. In some cases, other Governments could be concerned (transit countries; country of origin of a transnational corporation).

16. General comments received from Governments are summarized in chapter II of the present report. Communications received by the Special Rapporteur and government replies are contained in chapter III.

I. ACTIVITIES OF THE SPECIAL RAPPORTEUR

17. In her progress report, the Special Rapporteur reiterated that she intended to establish a dialogue with Governments concerning allegations and prospective field missions with a view to assisting the Governments concerned in finding appropriate solutions to deal with the illicit traffic and dumping of toxic and dangerous products and wastes, especially in African and other developing countries. Accordingly, she would endeavour to undertake missions in situ to the five geopolitical regions to investigate allegations and to supplement information required to fulfil her mandate.

18. The Special Rapporteur visited Geneva in May 1997 for the meeting of the special rapporteurs/representatives, experts and chairpersons of working groups of the special procedures. On that occasion, she took the opportunity to hold consultations with staff of the Centre for Human Rights: on 21 May 1997, the Special Rapporteur had an exchange of view with the Technical Cooperation Branch about the possibility of setting up a project in Africa aimed at enhancing local capacities to fight against illicit traffic and dumping of toxic wastes.

19. On 23 May 1997, the Special Rapporteur met the Executive-Secretary of the Secretariat for the Basel Convention (SBC). During the meeting the Special Rapporteur had an exchange of views with the SBC on the possibility of developing a technical assistance project and asked for support.

20. From 9 to 22 August 1997 the Special Rapporteur undertook a field mission to South Africa, Kenya and Ethiopia. The report of the mission is contained in document E/CN.4/1998/10/Add.2.

II. SUMMARY OF GENERAL COMMENTS SUBMITTED TO THE SPECIAL RAPPORTEUR

A. Replies received from Governments

21. Australia. The Government of Australia indicated that amendments to Australia's Hazardous Waste Act came into force in December 1996, thus enabling Australia to fully implement its international legal obligations under the Basel Convention. Under the amended Act, there are substantially increased penalties for illegal trade in hazardous waste. In particular, maximum fines have been increased to $A 1 million and executive officers can now be held personally liable for contraventions of the Act by their companies. These increased penalties show the seriousness with which illegal traffic is viewed by the Australian Government.

22. Bangladesh. In its reply the Government of Bangladesh drew to the attention of the Special Rapporteur a long list of environment-related international conventions and instruments signed by Bangladesh, demonstrating the commitment of the Government in this area.

23. Croatia. The Government of Croatia stated that the Law on Dangerous and Toxic Wastes of 1995 regulates the rights, obligations and responsibility of individual and legal entities as well as bodies of local self-government in handling all kinds of wastes, including the import, export and transit of such wastes in accordance with the Basel Convention to which Croatia became a party by the act of ratification on 7 August 1994. According to the Law, while the import of such wastes is expressly prohibited, export remains permitted to the extent possible under the provisions of the Basel Convention. Criteria and guidelines for the decision-making in respect of the location of premises for the storage of toxic wastes are set by the National Strategy for Environmental Protection as well as the National Programme for Environmental Planning which were adopted by the Parliament. A system of accompanying documents and reports on the examination of the physical and chemical characteristics of the toxic wastes was introduced, in order to achieve better control over the handling of toxic wastes from the place of creation to the place of recycling or storage. Furthermore, under the Croatian criminal legislation several acts of illegal handling and dumping of toxic wastes are considered as crimes, namely the Illegal Acquiring and Handling of Nuclear Material; the Endangering of Security with Nuclear Material; the Unlawful Trafficking in Explosive or Flammable Material; the Illegal Import of Dangerous Material; the Pollution of Food and Water for Cattle; the Destruction of Plantations by the Use of Dangerous Material; the Endangering of Life and Property by Dangerous Act or Means; the Handling of Dangerous Goods; and the Pollution of the Human

Environment. Between 1995 and 1997 three cases of such crimes were recorded in Croatia; all of them were dealt with by the Public Prosecutor in accordance with the provisions of the Criminal Procedure Act.

24. Cuba. The Government of Cuba recalled some of the measures in the field of toxic wastes, such as resolution No. 15 on the functions of the national authority and focal point for the Basel Convention, adopted by the Minister of Science, Technology and Environment in 1996. Although no importation or illegal dumping of toxic and dangerous products and waste has occurred in Cuba so far, the Government of Cuba:

(a) Underlined the difficulties faced in controlling its maritime coasts which risk being transformed into dumping sites, especially in consideration of the geographical position of the island which might be used as a transit country and, pursuant to paragraph 6 of resolution 1995/81, requested technical assistance in order to implement an environmentally sound policy;

(b) Suggested that the Special Rapporteur invite the international community to provide additional financial support to fight the illicit traffic and dumping of toxic and dangerous products and wastes and hence implement resolution 1996/15 on the right to development;

(c) Expressed the opinion that "products" and "wastes" should be dealt with in two different resolutions, so as to prevent exporters from abusing legal loopholes which offer more lax regulation for "products".

25. Cyprus. The Government of Cyprus stated that it will consider the illicit movement and dumping of toxic and dangerous products and wastes along with the ratification of the Convention on the Physical Protection of Nuclear Material and other similar conventions, in an attempt to devise means of effective preventive measures; in addition, Cyprus has ratified the Basel Convention.

26. Ghana. The Government of Ghana stated that Ghana, being a signatory to the Basel Convention, has taken appropriate measures to ensure the application of its provisions, which include the establishment, by the Environmental Protection Agency, of a task force on toxic wastes composed of representatives from agencies and sectoral ministries whose activities are directly or indirectly associated with the importation of general cargo, or which could be affected most in the event of dumping of hazardous wastes. Moreover, the Government of Ghana has passed into law the Pesticides Control and Management Act (528), 1996, which specifies the requirements for the registration of pesticides, licensing of pesticide dealers and penalties for offenders of the Act. Finally, the Government of Ghana has imposed a ban on the importation of toxic waste and other dangerous waste into Ghanaian territory and put in place a programme aimed at screening and controlling all chemicals imported into the country.

27. Jordan. The Government of Jordan indicated that the Ministry of Municipal Affairs commissioned a foreign company to carry out a field study, financed by the Government of Japan, on the disposal of dangerous and toxic wastes in Jordan, in the light of which a suitable site was chosen,

50 km south of Amman. Lack of funds, however, prevented the project from being implemented. In addition, there are no facilities for disposing of toxic waste in Jordan except dangerous medical wastes, which some major hospitals dispose of in incinerators located on their own grounds. Nonetheless, the Government of Jordan is vigorously pursuing the possibility of raising funds for the disposal of dangerous wastes with all relevant international bodies.

28. Mexico. The Government of Mexico reported that toxic wastes are dealt with by the Federal Government. The National Human Rights Commission recommended that the National Contingency Plan for Environmental Accidents be diffused and that, in case of environmental disasters, investigations be conducted on the population affected. The 1988 Ley General del Equilibrio Ecológico y la Protección del Ambiente (LGEEPA) defines the concept of toxic waste and regulates its import and export. The amendments introduced in 1996 basically reconsider in a stricter way the concept of responsibility. The return to the sender principle is also foreseen. Pursuant to the LGEEPA, the 1988 Reglamento de la Ley General del Equilibrio Ecológico y la Protección del Ambiente en Materia de Residuos Peligrosos introduced the obligation for those who produce wastes to keep track of the wastes generated and assess the environmental impact of their activities. The Reglamento en Materia de Residuos Peligrosos establishes eight official rules - the Normas Oficiales Mexicanas. Moreover, closer cooperation has been established with the Governments of Canada and the United States in an agreement which entered into force on 1 January 1994 and completed the North America Free Trade Agreement (NAFTA) from an environmental perspective. The Commission on Environmental Cooperation of North America, which was created on 26 July 1994, ensures the implementation of the agreement.

29. New Zealand. The Government of New Zealand confirmed its interest in the responsible management of hazardous wastes and stated that it has no information to report on the movement and dumping of toxic and dangerous products and wastes.

30. Peru. The Government of Peru indicated that the importation of any toxic and dangerous products and wastes has been prohibited under Ministerial Resolution No. 141-88-S.A./DM of 20 April 1988 and Supreme Decree No. 03688S.A. of 29 November 1988. In addition, under the Peruvian criminal legislation, several acts of illegal handling and dumping of toxic wastes are considered as crimes. Internal dumping in particular is dealt with at different levels by a series of legislative instruments.

31. Turkey. The Government of Turkey stated that Turkey became a party to the Basel Convention on 20 September 1994. In line with the latter and Law No. 2872 on Environment, a by-law was passed on the control of dangerous wastes. This by-law, which entered into force on 27 August 1995, establishes the administrative and technical requirements for the management of dangerous wastes. Within this framework, dangerous waste cannot be imported nor can it be moved into Turkey for dumping. However, permits may be issued for the movement of certain types of scrap metal and other wastes which can be used as fuel or research material. The movement of dangerous wastes out of Turkey is carried out in line with the provisions of the Basel Convention. Notification No. 97/3 on "Products subject to control for the protection of the environment" regulates the monitoring of traffic of wastes into Turkey, the

implementation of the notification procedures in accordance with the Basel Convention and the "By-Law on the Control of Dangerous Wastes" the prevention of illicit movement of dangerous wastes enumerated in the by-law into Turkey and the monitoring of the movement of scrap material into Turkey.

32. Ukraine. The Government of Ukraine reported that in order to supervise movements of dangerous products and wastes, it has developed an information system whose main functions are the collection and storage of information on permits issued; the design of standardized basic documents; the search for and provision of information on the requirements of problem users; and the exchange of information. In addition, in order to safeguard human rights, a frontier environmental control service was set up in 1995, as part of the State Ecological Inspectorate of Ukraine, for ensuring State monitoring of compliance with the requirements of environmental legislation and ecological safety rules in connection with the movement of dangerous substances and wastes across the national frontier. Environmental control has now been introduced at 58 national frontier crossing points. With a view to improving the work of the Frontier Environmental Control Service, the Cabinet of Ministers of Ukraine adopted Ordinance No. 704 of 28 June 1997 on the introduction of amendments to certain ordinances of the Cabinet of Ministers of Ukraine on aspects of the application of environmental control at national frontier crossing points, which brings the list of national frontier crossing points at which environmental control will be enforced into line with the requirements of international treaties and deals with a number of other important questions. In addition, instructions on the application of environmental control at national frontier crossing points in Ukraine are at present being drawn up and agreed with the central State executive agencies concerned.

33. Zambia. The Government of Zambia stated that Zambia banned, through legislation, any importation of hazardous waste because it has no technological capacity to safely dispose of it. The Environmental Protection and Pollution Control Act (EPPCA) No. 12 of 1990 sets up the autonomous Environmental Council of Zambia as an environmental protection agency. At present, an inventory of all locally generated hazardous wastes and dangerous products is being carried out to ascertain their types, quantities, management practices and other pertinent issues that will provide a picture of the problem, as well as to develop regulations for the management of hazardous wastes. Preliminary investigations suggest that hazardous wastes in Zambia result from by-products in manufacturing and industrial engineering processes, as well as old technology used in the fields of energy and hydroelectricity. In addition, the Zambia Revenue Authority (Customs) has been alerted to look for imports of dangerous materials and report to the Environmental Council of Zambia as the competent authority and the Ministry of Environment and Natural Resources as focal point.

B. Information submitted by intergovernmental organizations

34. The Secretariat for the Basel Convention provided the Special Rapporteur with documentation on the fourth meeting of the Conference of the Parties (COP) to the Convention. The meeting, initially scheduled for 6-10 October 1997, was postponed to February 1998. The results of the meeting could not therefore be included in the present report.

35. At its third meeting, held in Geneva from 18-22 September 1995, the COP to the Basel Convention endorsed the work and recommendations of its Technical Working Group and, in particular, requested the Group to continue the development of lists of wastes which are hazardous and wastes which are not subject to the Convention for adoption by the Conference of the Parties at its fourth meeting.

36. At its seventh session (March 1995), the Technical Working Group considered and reviewed the format of the Notification and Movement Document prepared by the SBC in accordance with Decision II/16 of the second meeting of the COP. In its Decision III/16, the COP adopted the revised format of the Notification and Movement Document. It also adopted provisionally the Instruction Manual on the Control System for the Transboundary Movements of Hazardous Wastes and Other Wastes accompanying the forms and requested the SBC to finalize it.

37. In its Decision III/2, the COP requested the Ad Hoc Working Group of Legal and Technical Experts to Consider and Develop a Draft Protocol on Liability and Compensation for Damage Resulting from Transboundary Movements of Hazardous Wastes and their Disposal to finalize the draft articles of the protocol in order to present it for consideration and adoption at the fourth meeting of the COP. The Working Group, at its fourth (Geneva, 24-28 June 1996) and fifth sessions (Geneva, 20-23 May 1997), succeeded in streamlining the draft. However, it did not succeed in finalizing the draft protocol.

38. The fourth meeting of the COP was due to discuss the above-mentioned issues, together with the designation of Competent Authorities and Focal Points; the cooperation between the SBC and the activities undertaken at the global level leading to the development of legally binding instruments on trade in hazardous chemicals; the implementation of Decision III/9 (Bilateral, Multilateral and Regional Agreements or Arrangements); III/17 (Transmission of Information); III/18 (Establishment of the Information Management System on Wastes of the Basel Convention); III/19 (Establishment of Regional or Sub-Regional Centres for Training and Technology Transfer regarding the Management of Hazardous Wastes and Other Wastes and the Minimization of their Generation); III/20 (Training and Seminars related to the Basel Convention); III/26 (Cooperation with United Nations bodies and regional systems and organizations, and others).

C. Comments received from non-governmental organizations

39. Information submitted to the Special Rapporteur by NGOs included the Recommendations for Actions and Commitments presented at Earth Summit II. As far as chemicals were concerned, NGOs called for the expeditious negotiation of a legally binding instrument on Persistent Organic Pollutants (POPs) that would focus on reducing and eliminating such dangerous chemicals, not just controlling them; an agreement on prior informed consent and a global harmonized system for classification and labelling; and the development of a framework chemicals convention without delaying the expeditious negotiation of a treaty on POPs.

40. NGOs also suggested that the United Nations Environment Programme (UNEP) should be entrusted with overseeing the establishment of an Intergovernmental Negotiating Committee for POPs, as agreed by the UNEP Governing Council at its nineteenth session in February 1997, and the development of a framework approach or convention for integrating chemicals, related actions and activities.

41. Moreover, NGOs indicated that there were approximately 100,000 chemicals now in commercial use and their potential impacts on human health and ecological functions represent largely unknown risks. Furthermore, other chemicals such as lead are elements which often remain on the earth's surface where generation after generation are exposed to its toxic effects. The problem of nuclear contamination of indigenous lands and territories was also mentioned and deep concerns were raised regarding the adverse consequences of nuclear weapons on human rights and the environment.

III. REVIEW OF CASES AND INCIDENTS SUBMITTED TO THE SPECIAL RAPPORTEUR

42. Specific cases and incidents received by the Special Rapporteur from different sources are summarized below. Replies received from the Governments concerned - when available - are also reflected below.

43. Belgium/Lebanon. In October 1996, the Lebanese factory Saltex reportedly imported two containers full of mixed plastic wastes, some of which were contaminated with chemicals, declaring the shipment as plastic bags. The owner of Saltex - who was later arrested - apparently got the waste in France through a Lebanese businessman. The two containers arrived in Beirut port from Belgium and were confiscated by the Lebanese authorities after experts from the Ministry of Environment found that the waste was contaminated with pharmaceutical chemical substances, and concluded that it was meant for final disposal and could not be recycled in Lebanon.

44. In its reply the Government of Belgium stated that the authority concerned (Afvalstoffenmaatschappij voor het Vlaamse Gewest, OVAM) conducted the necessary investigation after being informed about the issue by the SBC. Apparently, the waste belonged to the "orange category", hence subject to an obligation of notification prior to exportation. The notification never took place. The producer of the waste committed himself to taking back the waste. Nonetheless, a procès verbal was initiated against the exporter. At present, the amount of the fine to be levied against the exporter is being determined.

45. Germany/China. More than 40,000 tons of mixed plastics have reportedly been imported to Jiangxi province, China, from German companies since 1993, causing serious soil and water pollution. Reportedly, the damage cannot be properly assessed because of lack of funding to undertake such an exercise.

46. The Government of China stated that the Chinese Government takes environmental protection seriously and imposes strict limits on the dumping and incineration of toxic wastes and on environmental pollution. The Environmental Protection Bureau and the General Customs Office, among other authorities, have since March 1991 promulgated regulations such as a circular concerning strict controls on the transfer of toxic substances from abroad into China and temporary provisions governing environmental protection during

the import of toxic substances, by means of which the Government closely controls imports of toxic substances from abroad and pollution of the Chinese environment. The importation of a small number of recyclable materials is authorized only after an appraisal of the environmental risk and when the approval of the Environmental Protection Bureau has been secured. Any transfer of materials to China without such approval constitutes illegal importation. Such cases, when discovered, entail removal of the materials from the country, and those responsible are severely dealt with.

47. Between 1993 and 1995, the Hualong ("Splendid") Chemicals Corporation in Jiangxi province illegally imported over 40,000 tons of mixed plastic waste from Germany. The waste polluted the local soil and water, and adversely affected people's health. The Environmental Protection Bureau has dealt severely with this case. Part of the waste has been returned to Germany, and the remainder has been appropriately dealt with under the supervision of the local Department of the Environment.

48. Moreover, the Government of China, after investigating the matter referred to in the allegations contained in the 1997 report on toxic waste (E/CN.4/1997/19, para. 39), stated that China's National Environment Protection Agency had never approved the shipment of two containers of computer scrap from Australia, nor did Chinese regulations allow waste to be imported from abroad in order to be burned. The Government of China confirmed its commitment to the protection of the environment and imposed strict limits on the dumping and burning of toxic waste damaging the environment. Since March 1991, competent authorities such as the National Environment Protection Agency and the General Customs Office have promulgated, inter alia, the Notice on the Control of Transfer of Toxic Waste into China from Abroad and the Provisional Regulations on the Management of Imported Waste to ensure the Protection of the Environment, by which the Government of China strictly controls the importation of waste liable to pollute the environment. It will, however, after careful assessment of environmental risks and with the approval of the National Environment Protection Agency, allow in small quantities of recyclable waste to be used as raw material. The entry of any other kind of waste into the country from abroad without the Agency's permission is deemed to be illegal. Any waste detected shall be returned to its source, and the offending party shall be rigorously prosecuted according to law.

49. Israel. The Government of the Syrian Arab Republic brought to the attention of the Special Rapporteur that various kinds of radioactive and hazardous wastes were being disposed of at different points in the Mediterranean Sea by Israel. It is alleged that about 2.5 million cubic metres of polluted water, including hazardous materials from chemical companies in Jaffa, were dumped into the Fesho River which flows into the Mediterranean. It is also alleged that since 1991, Israel has been dumping about 50,000 tons/year of hazardous wastes into international waters.

50. In its reply the Government of Israel stated that the Syrian letter made unfounded accusations and groundless allegations against Israel. It was rather difficult to understand to which river the Syrian authorities were referring, as there is no river in Israel by the name of Fesho River. However, based on the limited data available in the complaint, it seems that it was based on articles which appeared in the Israeli press concerning a

chemical company in the Haifa Bay area and the disposal of their industrial wastes. In spite of what the publications said, the factory is operated under the close supervision of the Inter-Ministerial Dumping and Land Based Sources Committees and meets all the necessary environmental criteria stipulated by Israeli law and the relevant Protocols to the Barcelona Convention. Furthermore, the monitoring reports prepared by Israeli Oceanographic and Limnological Research Ltd. show that the water quality along the Israeli coastline, including the area north of Haifa, is good and the coastlines themselves are clean, meeting all national and international standards.

51. Paraguay. The Government of Paraguay informed the Special Rapporteur that it is investigating a serious case of illicit movement and dumping of toxic wastes which may have occurred in its territory. Relevant information will be sent as soon as available to the Special Rapporteur, whose assistance is requested in order to investigate the issue.

52. Thailand. The Government of Thailand brought to the attention of the Special Rapporteur that on 2 March 1991, a massive fire engulfed some warehouses at Klong Toey port in Bangkok where various chemicals had been stored, causing serious damage to life and property in the surrounding areas. In order to rapidly dispose of the residues, the Port Authority of Thailand was given permission to utilize an area under the control of the Ninth Army Infantry Division at Tambon Lard Ya, Muang district, Kanchanaburi province, as a landfill site. A total of 500 tons of chemical residues, sand and stabilizing agent were deposited at the facility. Subsequently, a petition was lodged with the Government on 16 December 1992, alleging that such a method of disposal was environmentally unsound. Although no evidence was found that would indicate contamination by toxic substances, the Government entrusted the Ministry of Science, Technology and the Environment with finding a suitable method for disposing of the chemical residues. A working group was set up to solve the problem. It decided that the chemical residues should be removed from the original site to a secure landfill in the same area. The Pollution Control Department was charged with the design of the new site and the Ninth Infantry Division with the construction, with the Port Authority of Thailand bearing the entire cost of the removal. The work was carried out between September 1994 and 1995. As a part of the follow-up activities, the Pollution Control Department has maintained a close watch over environmental conditions in the surrounding areas on a continuous basis. The Government of Thailand observed that all chemical residues left by the fire have been properly disposed of; that for the chemicals and wastes in the care of the Port Authority of Thailand for which no country has accepted their return, the Port Authority of Thailand will coordinate with the Department of Industrial Works of the Ministry of Industry to ensure the proper disposal; and that Thailand is not a State from which illicit traffic of toxic and dangerous products and wastes originates. The Government of Thailand further stated that the remedial actions undertaken in the aftermath of the events of 2 March 1991 were in accordance with the Environmental Quality Promotion and Protection Act of 1992. In addition, throughout the period of construction of the new secure landfill site, the Pollution Control Department has disseminated accurate and timely information to the public through the mass media on a regular basis, while resource persons from non-governmental groups also participated in the operation.

IV. CONCLUSIONS AND RECOMMENDATIONS

A. Conclusions

1. Broad trends and characteristics in the movement of toxic wastes and dangerous products

53. A whole range of interrelated factors of a legal, economic, social and political nature contribute to the emergence and development of the movement of toxic wastes and dangerous products between the industrialized and the developing countries.

54. During the 1970s increasing public awareness of the harmful effects of expanding production of toxic wastes led a number of industrialized countries to introduce more stringent legislation in that area. In some of these countries, the hostility of public opinion brought about a virtual moratorium on the treatment and disposal of such wastes. During the same period, however, waste production has continued to increase. According to some estimates, during the 1980s the annual production of waste in the countries of the Organization for Economic Co-operation and Development (OECD) as a whole was in the order of 300 million tons. The information submitted to the Special Rapporteur indicates that the same countries produce more than 95 per cent of all dangerous wastes, the biggest waste exporters being Germany, the Netherlands, the United States, the United Kingdom and Australia.

55. As the disposal of toxic wastes and dangerous products became more difficult and more expensive for the industrialized countries, companies sought outlets in the poorest countries, which had not yet introduced appropriate regulations or did not possess an adequate infrastructure or the human or financial resources that would allow them to determine the nature of the imported products. In some cases the products were brought into the country, dumped and stored in contravention of the national legislation, either through the use of falsified documents or by bribing officials in the country of origin, the transit country or the country of final destination of the exported dangerous product.

56. The differences in domestic legislation and the costs of waste disposal in the producer countries triggered the development and proliferation of transboundary movements of toxic and dangerous wastes. Wastes were sent to regions lacking the political and economic power to refuse it. According to some estimates, in 1983 15 per cent of the world's dangerous wastes - 45 million tons - were dumped outside the country of origin. At that time most trade in wastes was carried out among the OECD countries. In 1988, between 2 and 2.5 million tons of wastes circulated among the European member countries of OECD. It was not until the mid-1980s that the movement of toxic wastes acquired a North-South dimension. According to non-governmental sources, between 1986 and 1988 more than 6 million tons were sent to developing countries and countries in Eastern Europe, particularly Romania and Hungary; Africa alone received around 50 million of the 100-300 million tons produced annually by the developing countries. According to estimates by the United Nations Environment Programme (UNEP), developed countries exported 20 per cent of their wastes to developing countries in 1989. For third world

countries suffering from over-indebtedness and the collapse of raw materials prices, the import of dangerous wastes had a particular attraction as a last resort for improving liquidity.

57. During the 1980s Africa was the most frequently targeted continent. The scandals of 1987 and 1988, including the discovery of the existence of contracts between Western companies and African countries whereby the companies paid a pittance for land on which to dump toxic products, prompted a backlash in developing countries, especially those in Africa. The Organization of African Unity (OAU), in its resolution 1153 (XLVIII) dated 25 May 1988, declared such dumping a crime against Africa and the African people. On 7 December of the same year the United Nations General Assembly, in its resolution 43/75, condemned the dumping of nuclear and industrial wastes in Africa.

58. At that time, UNEP was embarking on the drafting of an international convention on the control of transboundary movements of hazardous wastes and their disposal. The Basel Convention, which was finalized in 1989 and entered into force in 1992, was the product of a compromise between the advocates of a total ban on the transboundary movement of wastes and those who wished to establish a legal framework and conditions for the international transport of wastes. At their third meeting, in 1995, the States parties adopted an amendment to the Convention prohibiting the export of hazardous wastes, including those destined for recycling, from OECD to non-OECD countries.

59. In 1991, the African countries adopted the Bamako Convention on the Ban of the Import into Africa and the Control of Transboundary Movement of Hazardous Wastes within Africa. The Convention has 22 signatories and 14 ratifications but has not yet entered into force since only 9 States parties out of the 10 required by article 25 of the Convention have deposited their instruments of ratification.

60. Despite the existence of these conventions and of numerous accords and regional directives aiming to ensure the control and monitoring of international shipments of wastes, the volume of transboundary movements of toxic wastes has not diminished.

61. According to information provided to the Special Rapporteur, despite the prohibitions imposed by the majority of the developing countries on the import of toxic wastes and dangerous products, exports from the industrialized countries have increased for a number of reasons.

62. Waste production has continued to expand and the high cost of disposal or recycling operations in the countries where wastes are generated has led to a proliferation of so-called "legal" exporting of wastes for "recycling" programmes. According to some non-governmental estimates covering the period between 1989 and 1993 in countries where information is most accessible, nearly 3 million tons of dangerous wastes were "legally" shipped from OECD countries to developing countries under recycling programmes. The biggest exporters listed were Germany, the United States, Austria, the United Kingdom, Australia, Canada, France, Sweden and the Netherlands. The Baltic States and Eastern and Central European countries were most commonly targets, followed by countries in Latin America and the Caribbean, Asia and Africa. Reportedly,

Germany tended to export chiefly to the Baltic States and Eastern Europe and secondarily to Latin America and Asia. Half of the United States exports went to Latin America, while the United Kingdom appeared to favour Asia although it was diversifying its export destinations.

63. In many cases the so-called "legal" transboundary movement of wastes conceals operations to dump hazardous wastes for disposal or permanent storage. The wastes are sent to poor countries lacking the infrastructure for appropriate treatment. They are usually dumped in overpopulated areas in poor regions or near towns, posing great risks to the environment and to the life and health of the poorest populations and those least able to protect themselves.

64. Trade in wastes for recycling or reuse has also increased sharply. According to information submitted to the Special Rapporteur, "95 per cent of the dangerous wastes forming the subject of transboundary movements between OECD and other countries are intended for recovery operations". In some cases the recycling operations referred to are fictitious and a pretext for the illicit transport of hazardous wastes that enter a country as "goods" or "products" for reuse in energy generation, in the construction of roads or buildings, or even as fertilizer. In some cases, recycling operations such as metal recovery, which are considered legal, are a serious threat to the population's health and the environment. The recycling of contaminated waste flows, an industrial operation of a particularly polluting and harmful nature, tends to be systematically exported to developing countries and East European countries.

65. The Special Rapporteur has been alerted to the risks involved in operations or installations for recycling toxic wastes and dangerous products, such as incineration facilities or lead recycling plants. Waste traders frequently sell incineration plants to the poorest countries claiming that these plants produce free energy from wastes, even though in the industrialized countries they are subject to stringent regulations and even moratoria on their operation, prior to phasing-out. Increasing quantities of lead battery scrap are reportedly being exported to developing countries for recycling as stricter regulations to safeguard the environment and worker health and safety are introduced in the industrialized countries.

66. The information received by the Special Rapporteur indicates that polluting industries, activities and/or technologies generating hazardous wastes are tending to migrate from OECD countries to developing countries (technologies relating to industrial activities using asbestos, cyanide and chlorine for example; and pesticide industries).

67. A number of products that have been withdrawn from sale or strictly regulated in the industrialized countries continue to be freely exported to developing countries (certain pesticides and pharmaceuticals, asbestos, plastic materials containing dangerous substances).

68. The differences in legal and regulatory standards between the developed and the developing countries have made it more difficult and more expensive to treat and dispose of wastes in the country of origin. It is

to companies' advantage to dump wastes in countries lacking analogous legislation and the human and financial resources necessary to enforce such legislation.

69. In the industrialized countries, while the sale of toxic products on the domestic market is tightly regulated, legislation on exports is, if not non-existent, at least tolerant. The same applies to the regulation of production: the existing regulations do not address the fact that production processes generate toxic wastes, nor do they aim to halt such waste generation. The emphasis is not on prevention but on combating pollution and consequently on finding outlets for the wastes in other, geographically more vulnerable areas.

70. The liberalization and deregulation of international markets, including financial markets, have also aided the movement of toxic wastes from the developed to the developing countries by facilitating access to credit and removing licensing conditions and other restrictions previously imposed on waste exporters. Transnational corporations now have greater freedom to set up in countries where, owing to political, economic or social constraints or a lack of human and financial resources, environmental legislation is rudimentary, non-existent or poorly enforced. The most lucrative transactions are to be made in regions that are stagnating economically and countries that are prey to unemployment and external debt and looking for job-creating substitution or investment industries.

71. For many developing countries, the lack of specialized databases and information banks, properly equipped laboratories, sufficiently skilled human resources, and financial means, makes it difficult to determine the nature of some of the substances entering the country. In some cases the offers made by waste traders either omit key information that would make it possible to determine the nature of the product or give false information. Fraudulent practices are sometimes compounded by bribery of officials at the various stages of the movement of toxic products across borders. Consignment documentation, laboratory analyses and permits are frequently falsified by carriers and shippers. Through fraud, ignorance, negligence or complicity the true nature of the goods dispatched escapes the notice of customs officials and border police in the country of origin, the transit country and the importing country.

72. At the international level, there are no effective regulatory or monitoring mechanisms. Illicit practices benefit from the vague language and ambiguous provisions of the international conventions. The lack of any monitoring or control mechanism, in conjunction with the loopholes in the conventions, allow arrangements to be made at the very fringes of the law. Recourse to fraudulent practices is assured of impunity in the absence of administrative sanctions and/or civil or criminal proceedings.

73. African and other developing countries continue to be the chief targets of the illicit movement and dumping of toxic wastes and dangerous products. According to information given to the Special Rapporteur, however, new countries are now involved: the Baltic States, Russia, Ukraine, Georgia, Slovenia, Romania, Poland and Albania.

74. The illicit traffic in toxic wastes and dangerous products continually assumes new forms, the principal characteristic being the ability of the persons and companies engaged in such practices to adapt to new factors at the national level and changes in the international situation. The promulgation of legislation at the national level and the international conventions notwithstanding, trade in dangerous wastes is continually developing, assuming ever more elaborate forms as States acquire appropriate legislation, and shifting towards the economically weak countries and towards areas of tension and conflict where the enfeeblement of governmental and judicial authorities and of administrative structures renders any effort to control the trade and any attempt at prosecution futile.

75. In at least one case brought to the attention of the Special Rapporteur, humanitarian assistance was used as a cover for dumping toxic products in a country in difficulties. In other cases the traffic in toxic products has been said to be closely linked to arms, nuclear materials and drugs trafficking, which presupposes the existence of particularly dangerous and sophisticated international trafficking networks which no State can fight alone.

76. The Special Rapporteur's attention has also been drawn to the fact that the dumping of toxic wastes and dangerous products, over and above its international aspects, was assuming dramatic internal proportions in particular countries as companies, aided by the complicity or negligence of the central, federal or regional authorities, tended to store wastes in areas and towns inhabited by poor or economically disadvantaged populations or groups that are subject to discrimination in its various forms. In accordance with the wishes of certain members of the Commission on Human Rights, the numerous communications received on this matter have not been examined. The Special Rapporteur cannot refrain, however, from voicing her concern at this serious problem, which ought to be addressed through the mechanisms for the protection of human rights.

2. The illicit movement and dumping of toxic wastes and dangerous products and the enjoyment of human rights

77. The information and specific cases submitted to the Special Rapporteur indicate that the facts and incidents relating to the illicit movement and clandestine dumping of toxic wastes and products, generally in developing countries or in regions settled by poor or disadvantaged populations or groups suffering from discrimination, were underpinned by fraudulent practices and accompanied by violations of various categories of rights under the international human rights instruments, not only collective rights but also individual political, civil, social and economic or cultural rights.

78. The communications addressed to the Special Rapporteur describe acts affecting the right to life and security of person, health, an adequate standard of living, adequate food and housing, work and non-discrimination. In certain cases serious violations of the right to life and health had occurred, and the reported incidents had led to sickness, disorders, physical or mental disability and even death.

79. In other cases, the right of association and the freedom of access to information were similarly ignored or severely curtailed, thereby hampering action by individuals or groups to prevent the dumping of toxic wastes, to exercise their rights and to mobilize the human and financial resources necessary to deal with the problem.

80. The communications addressed to the Special Rapporteur frequently mention violation of the right to information. Generally speaking, in the absence of information, the root problem goes unnoticed until an incident occurs with serious consequences for the life and health of individuals as well as irreversible damage to the environment. After the incident, information vital to the victims and their protection is either withheld, falsified, or supplied late or in an incomplete, piecemeal or unusable state. Obstacles are also placed in the way of the exercise of the right to disseminate information, with government authorities citing reasons of national security and transnational corporations claiming commercial confidentiality.

81. The information supplied to the Special Rapporteur concerning the practices of transnational corporations suggest that other rights are being flouted as well, such as peoples' right to self-determination and to dispose freely of their natural resources under the opening articles of the International Covenants, and the right to development recognized by Declaration on the Right to Development.

82. The aforementioned practices also affect the right to work, the right to the enjoyment of just and favourable conditions of work and the right to freedom of association. The operations of transnational corporations infringe the right to form and join trade unions, the right to strike and participate in collective bargaining, the right to social security and the right to enjoy the benefits of scientific progress and its applications.

83. Other rights under the Universal Declaration of Human Rights, the International Covenants and other human rights instruments are also affected by the acts reported, including the right of everyone to an adequate standard of living, including adequate food and housing, and to the continuous improvement of living and working conditions.

84. The communications received by the Special Rapporteur show that it is often the most vulnerable groups that are the main targets and consequently the most affected by the dumping of toxic wastes and dangerous products. As well as discrimination on the grounds of race or of membership of a social, ethnic, political or cultural group, what is known as "ecological" discrimination also occurs, in that wastes are buried preferably in the territories of developing countries and in areas inhabited by disadvantaged groups, migrants, indigenous peoples or racial, religious, linguistic or other minorities. Moreover, these population groups are excluded from the process of environmental decision-making, monitoring and follow-up. They usually lack the wherewithal to initiate judicial proceedings or to obtain any other form of administrative or legal redress.

3. Comments on the cases submitted to the Special Rapporteur

85. At this stage the Special Rapporteur cannot draw any conclusions or make any recommendations regarding the specific cases and incidents submitted to her, insofar as the short time she has exercised her mandate, together with the inadequate human and financial resources hitherto available, have prevented her from either conducting exhaustive inquiries or ensuring the appropriate follow-up of the cases. For the same reasons, it has not been possible to draw up a list of companies and transnational corporations involved in illicit trafficking.

86. On rare occasions, for example in South Africa, which she visited at the invitation of the Government, the Special Rapporteur was able to confirm that domestic measures were being taken and independent commissions of inquiry appointed with a view to establishing the facts, remedying the situation and looking after victims' interests (see document E/CN.4/1998/10/Add.2). There were many other cases where the review procedure followed by the Special Rapporteur did not help her to identify incidents, measure their magnitude or discover their consequences.

87. In the absence of adequate human and financial resources, the Special Rapporteur must rely on the information she receives from various sources. Reports are often vague, and information may be fragmentary or incomplete because non-governmental or private sources do not have access to the information they want or are obstructed in their activities and research.

88. In addition, victimized Governments, even when they possess information - which is not always the case, many of them having reported that they do not have reliable information or any way of confirming "rumours" concerning dumping or attempted dumping of wastes in their territories or in neighbouring countries - are often loath to publicize situations that may discredit their administration or prompt the countries of origin to take retaliatory economic or financial measures, or that may drive away foreign investment.

89. While she is grateful to the Governments for their cooperation, the Special Rapporteur wishes to point out the difficulties caused by the content of the majority of the comments submitted in response to the allegations contained in her second report and this, her third report. While all replies are appreciated and allowing for the fact that many countries, particularly developing countries, have difficulty in gathering and compiling the necessary information, it is nevertheless the case that the responses confined themselves mainly to refuting the allegations, questioning the jurisdiction of the Special Rapporteur or describing the legislative or regulatory measures taken to combat illicit trafficking, without reference to the specific case that is the subject of the communication and without indicating whether the authorities have any intention of shedding light on the allegations.

90. In the light of the foregoing, and in keeping with the review procedure currently used in human rights protection mechanisms, the Special Rapporteur has included in her two latest reports and in document E/CN.4/1998/10/Add.1, the communications she has received and the government responses to them. However, bearing in mind the interplay of the two factors mentioned above,

neither the inclusion of the allegations nor the inclusion of the responses implies any opinion or judgement on the part of the Special Rapporteur as to the validity of these allegations and refutations.

91. Moreover, it is likely that the number of communications received on specific cases in no way reflects the magnitude of the problem in view of the aforementioned withholding of information.

B. Recommendations

92. It should be recalled that, in the Vienna Declaration and Programme of Action, the international community recognized that "illicit dumping of toxic and dangerous substances and waste potentially constitutes a serious threat to the human rights to life and health of everyone". The Special Rapporteur therefore recalls the commitment made by all States "to adopt and vigorously implement existing conventions relating to the dumping of toxic and dangerous products and waste and to cooperate in the prevention of illicit dumping".

93. Prevention is of crucial importance in avoiding adverse effects for the life and health, not only of individuals but of whole communities, and irreparable damage to the environment. Experience shows that, despite the provisions of such international conventions as the Basel Convention and the Bamako Convention, requiring the country of origin to reimport hazardous products illicitly transported into a country, few Governments, either through political opportunism or for economic reasons, are prepared to implement this provision. This merely underlines the importance of preventive measures to halt the occurrence or recurrence of illicit dumping of wastes.

94. It is important to reinforce countries' ability to detect and suppress any attempt to import toxic and dangerous products into their territory. International judicial cooperation and exchanges of information must be facilitated in order to mount an effective defence against fraud and corruption in the countries of origin, the importing countries and the transit countries. International cooperation should be encouraged in efforts to combat organized trafficking networks.

95. It is important to develop regional and international cooperation in this area and to help countries, particularly developing countries, to obtain the necessary information on illicit trafficking and in that regard to set up databases that are accessible to those countries on the nature of dangerous products and toxic wastes, the companies that indulge in illicit practices and any organized networks that may be uncovered.

96. The capabilities of the secretariat of the Basel Convention and, at an opportune moment, those of the secretariat of the Bamako Convention should be strengthened and States should be encouraged to ratify these conventions and to cooperate fully in the implementation of their provisions, including those prohibiting the export of dangerous goods, even for recycling, from the industrialized countries to the developing countries.

97. The Special Rapporteur wishes to highlight the fact that scant information and few communications have thus far been submitted to the secretariat of the Basel Convention by Governments. It is important to

strengthen the mechanisms for international monitoring of the implementation of the Convention as amended and to encourage the States parties to report contraventions.

98. The greatest difficulty for the developing countries is to detect the true nature of products entering their territory. To effectively counter fraudulent manoeuvres, it is necessary to strengthen these countries' domestic capabilities by, for example, giving financial assistance, transferring appropriate technology, providing analytical laboratories, helping to set up domestic databases, establishing regional and international centres for the exchange of data and information, and providing substantial assistance in education for the wider public and training for professionals in health, environment, business, customs, the police, anti-fraud services and the judicial system.

99. Wastes tend to be sent to regions where environmental legislation is rudimentary, non-existent or poorly enforced. It is important, therefore, for Governments to promulgate specific domestic legislation in order to avert this pernicious practice, and to take measures, including administrative, civil and penal sanctions to deter individuals, companies and transnational corporations involved in illicit trafficking.

100. Transnational corporations should at least be obliged to respect the laws of the host country and, when necessary, be held accountable for their actions and practices under the law of the country of origin, where stricter environmental standards are applied. Transnational corporations' countries of origin should assist countries that are the victims of criminal practices relating to the movement of toxic wastes in prosecuting and punishing the perpetrators of such offences, inter alia by criminal penalties.

101. Under the Basel Convention and the Bamako Convention, illicit trafficking in toxic wastes and dangerous products is a crime. States should take appropriate steps to classify offences relating to illicit movement of such wastes and products as criminal offences under their own domestic law. Following the example of the draft convention for the protection of the environment through criminal law, prepared by the Council of Europe in 1995, States should consider recognizing the criminal responsibility of legal persons and thus taking steps to impose penal sanctions on companies in cases where their agents, one of their agents, or other representatives have committed an offence connected with illicit trafficking in wastes on their behalf.

102. Framework domestic legislation and regional arrangements could be suggested to Governments that request them by the bilateral and multilateral cooperation agencies, UNEP, the Office of the High Commissioner for Human Rights (Advisory Services, Technical Assistance and Information Branch), the United Nations Crime Prevention and Criminal Justice Programme and the secretariats of the Basel Convention and the Bamako Convention.

103. The Special Rapporteur recommends that independent national commissions of inquiry with judicial or quasi-judicial powers should be instituted in cases of alleged illicit movement or attempted dumping of toxic wastes or dangerous products in order to shed light on the circumstances surrounding the

events, to expose any fraud or bribery, to prosecute the alleged perpetrators, to assess the impact on the environment and on the rights of the persons or communities affected, to guarantee effective means of redress so that victims can obtain adequate compensation or reparation, and to propose remedies to rectify the situation and to prevent the recurrence of illicit practices.

104. The role of education is of crucial importance. Raising the level of environmental understanding is a way of developing the means to conserve the environment while creating the conditions for victims to exercise their rights and defend themselves against the adverse effects of the deterioration of their living environment and their working and health conditions. Education also brings about a better understanding of the environmental costs of harmful practices and in this way makes it possible to take preventive and remedial action. While it is important to know that a child is sick, it is even more important to know why and what ails it in order to apply suitable remedies and avoid a relapse.

105. It is important to strengthen the environmental defence organizations, local associations and non-governmental organizations. Experience shows that the non-governmental organizations play an indispensable role in alerting public opinion and giving the necessary impulse to government reaction in cases of illicit movement and dumping of toxic wastes in a country. In some cases, such awareness has given rise to preventive measures making it possible to prevent wastes from being despatched to and/or stored in the country. In others, such action has made it possible to help victims, if not to fully exercise their rights, at least to make themselves heard.

106. Some Governments have granted associations the right to act on victims' behalf, including the right of defence and the power to bring actions, allowing the effective exercise of administrative and judicial redress. This trend should be encouraged and more States should adopt domestic measures to strengthen the judicial remedies exercised by such associations on victims' behalf, if necessary through the courts of the country of origin of the transnational corporation concerned.

107. The Special Rapporteur draws attention to her supplementary recommendations contained in addendum E/CN.4/1998/10/Add.2 to the present report, dealing with her visit to Africa.